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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,099	09/12/2000	Keith E Henry	DB000817-000	7316

7590 09/11/2002

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EXAMINER

VOLLANO, JEAN F

ART UNIT	PAPER NUMBER
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1621

DATE MAILED: 09/11/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/660,099

Applicant(s)

HENRY ET AL.

Examiner

Jean F. Vollano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☒ Claim(s) 15-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-27 are pending. There is no priority claim in the instant application.

Specification

2. According to 37 CFR 1.52 the specification must contain sheets with specific margins as follows: " Each sheet must include a top margin of at least 2.0 cm. (3/4 inch)" However on pages 2, 4, 6, and 9 there are holes punched to place the application in the application jacket which go through the text and therefore the text of the specification is illegible on these pages and the specification is objected to for this reason. Correction is required. This is also a problem on page 11 claim 17 (the claim has holes punched through it).

Claim Rejections - 35 U.S.C. § 112

3. Claims 20-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 recites the limitation of "adopting a standard concentration CHP solution" there is no guidance in the specification of what constitutes the metes and bounds of the above phrase.

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This is a step in the method claimed and if one does not know the metes and bounds of what the step then the claim is confusing as written as to what exactly is being claimed as the instant invention. The claim as written appears to include as little as 0.000etc1 being a standard concentration ?

Claim 20 recites the limitation of "preparing a crude cumene hydroperoxide". However the step after providing crude CHP solution is then purifying said crude CHP solution to at least 80%. It is unclear how one prepares a crude cumene hydroperoxide by providing a crude solution and then purifying the crude solution.

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Chem abs 365 (CA:87:200365).

Chem abs 365 teaches a composition of pure cumene hydroperoxide and water in 97:3 weight percent ratio.

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When Chem abs 365 teaches that the cumene hydroperoxide in solution is greater than 90% CHP then the claims are fully anticipated.

6. Claims 15, 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Elias (US 4,654,124).

Elias teaches a composition which contains 1% water by weight, and 88.8% CHP which is pure the claims are fully anticipated(see column 2, lines 1-5).

Allowable Subject Matter

7. Claims 1-14 are allowable. The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach or anticipate the methods being claimed in claims 1-14.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,202,498 teaches inhibiting color change in cumene hydroperoxide.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr J F Vollano whose telephone number is (703) 305-4483. The examiner can normally be reached on Monday to Thursday from 6:30 to 5:00 .

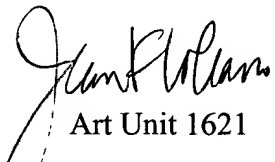
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10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter , can be reached on (703)308-4532 . The official fax phone number for the organization where this application or proceeding is assigned is (703)308-4556. It should be noted that the examiner cannot immediately work on a fax sent to this number.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1235.

Jean F. Vollano

Primary Examiner


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September 9, 2002